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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,954	09/15/2003	Syed Mohammad Husain	5602-12300	1057
7590	04/14/2009		EXAMINER	
Jeffrey C. Hood Meyertons, Hood, Kivlin, Kowert & Goetzel P.O. Box 398 Austin, TX 78767			DENNISON, JERRY B	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/662,954	HUSAIN ET AL.	
	Examiner	Art Unit	
	J Bret Dennison	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 December 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-33 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. This Action is in response to the Appeal Brief for Application Number 10/662,954 received on 6/24/2008.
2. Claims 1-33 are presented for examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 12, and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Warshavsky et al. (US 6732095).

4. Regarding claims 1, 12, and 23, Warshavsky disclosed a method comprising:

generating a message from a source application on a first computer system (col. 4, lines 38-51, relational data referred to by Relational Object Instance);

translating the message from an original format to a portable format on the first computer system, thereby generating a portable message, wherein the portable message comprises metadata which comprise identifying characteristics of the source application (col. 4, line 65-67, col. 5, lines 20-30);

sending the portable message from the first computer system to a second computer system using peer-to-peer message passing between the first computer system, the second computer system, and optionally one or more intermediary computer systems (col. 4, lines 38-40, 57-65);

receiving the portable message at the second computer system (col. 4, lines 37-40, sending to second computer); and

routing the portable message to a target application on the second computer system based on the metadata which comprise the identifying characteristics of the source application (col. 7, lines 44-49).

Claim 12 includes a computer readable storage medium comprising instructions to implement the method steps performed in claim 1. Claim 23 includes a system having two computers in communication, with one of the computers stores instructions to implement the method of claim 1. Warchavsky disclosed such a system as shown in Fig. 1. As such, claims 12 and 23 are rejected under the same rationale as claim 1.

5. Claims 1-7, 111-18, 22-29, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Wray (US 20010010076).

6. Regarding claims 1, 12, and 23, Wray disclosed a method comprising:
generating a message from a source application on a first computer system ([0151], "SLS PDU");
translating the message from an original format to a portable format on the first computer system, thereby generating a portable message, wherein the portable message comprises metadata which comprise identifying characteristics of the source application ([0151], XML generator layer that converts the SLS PDUs into XML; [[0096]-[0099]]);
sending the portable message from the first computer system to a second computer system using peer-to-peer message passing between the first computer system, the second computer system, and optionally one or more intermediary computer systems ([0151]);
receiving the portable message at the second computer system ([0151]); and
routing the portable message to a target application on the second computer system based on the metadata which comprise the identifying characteristics of the source application ([0151], [0155]-[0159]).

Claim 12 includes a computer readable storage medium comprising instructions to implement the method steps performed in claim 1. Claim 23 includes a system having two computers in communication, with one of the computers stores instructions

to implement the method of claim 1. Wray disclosed a client communicating with a target service in the manner described (Fig. 12). As such, claims 12 and 23 are rejected under the same rationale as claim 1.

7. Regarding claims 2, 13, and 24, Wray disclosed the limitations as described in claims 1, 12, and 23, including determining an application type of the target application based on the metadata of the portable message ([0097]-[0099]);

determining whether an existing instance of the application type of the target application is running on the second computer system;

wherein the routing the portable message to the target application comprises routing the portable message to the existing instance if the existing instance of the application type of the target application is running on the second computer system; and

wherein the routing the portable message to the target application comprises routing the portable message to a new instance of the target application if the existing instance of the application type of the target application is not running on the second computer system ([0158]).

8. Regarding claims 3, 14, and 25, Wray disclosed the limitations as described in claims 1, 12, and 23, including delivering a payload of the message to the target application ([0151]).

9. Regarding claims 4, 15, and 26, Wray disclosed the limitations as described in claims 1, 12, and 23, including translating the portable message from the portable format to the original format on the second computer system ([0151]).

10. Regarding claims 5, 16, and 27, Wray disclosed the limitations as described in claims 1, 12, and 23, including wherein the source application is network-unaware ([0157]).

Regarding claims 6, 17, and 28, Wray disclosed the limitations as described in claims 1, 12, and 23, including invoking functionality of the second computer system in response to the message ([151])

Regarding claims 7, 18, and 29, Wray disclosed the limitations as described in claims 6, 17, and 28, including wherein the invoking functionality on the second computer system comprises instructing the target application to take one or more actions ([0151]).

11. Regarding claims 11, 22, and 33, Wray disclosed the limitations as described in claims 1, 12, and 23, including wherein the portable format comprises XML, and wherein the portable messages comprise XML messages ([0151]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2443

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claims 8-9, 19-20, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wray.

13. Regarding claims 8, 19, and 30, Wray disclosed the limitations as described in claims 1, 12, and 23.

Wray did not explicitly state wherein the portable message is sent from the first computer system to the second computer system and one or more additional computer systems using multicast or broadcast peer-to-peer messaging.

Multicasting and broadcasting peer-to-peer messaging are well known ways for message communication within IP networks like the one disclosed in Wray.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate multicasting or broadcasting into the teachings of Wray to obtain the predictable result of sending the messages between devices.

14. Claims 10, 21, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wray in view of Miller et al. (US 20050100016).

15. Regarding claims 10, 21, and 32, Wray disclosed the limitations as described in claims 1, 12, and 23.

Wray did not explicitly state wherein the portable metadata comprises a quantity of allowable network hops before the message is considered undeliverable.

Miller disclosed using a maximum hop count for packet forwarding, wherein if the hop count reaches the limit, the packet is discarded ([0071]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate using the hop count limit as disclosed in the teachings of Miller into the teachings of Wray in order to discard messages being passed around in an endless loop, thereby increasing efficiency of message passing while also reducing congestion on the network (Miller, [0071]).

Response to Amendment

Applicant's arguments filed 12/18/2008 have been fully considered but they are not persuasive.

In response to Applicant's argument that Warshavsky does not teach or suggest that the portable message comprises metadata which comprise identifying characteristics of the source application, Examiner respectfully disagrees.

Applicant's Specification does not provide an explicit definition for the phrase "identifying characteristics of the source application".

Any term/phrase that is not clearly defined in the specification must be given its plain meaning as understood by one of ordinary skill in the art. See MPEP 2111.01. Claim terms are presumed to have the ordinary and customary meanings attributed to

them by those of ordinary skill in the art. *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003) and *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003). It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the "ordinary" and the "customary" meaning of the terms in the claims. See *Ferguson Beauregard/Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009 (Fed. Cir. 2003), *ACTV, Inc. v. The Walt Disney Company*, 346 F.3d 1082, 1092, 68 USPQ2d 1516, 1524 (Fed. Cir. 2003), and *E-Pass Technologies, Inc. v. 3Com Corporation*, 343 F.3d 1364, 1368, 67 USPQ2d 1947, 1949 (Fed. Cir. 2003). The ordinary and customary meaning of a term may be evidenced by a variety of sources. See *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298, 67 USPQ2d 1132, 1136 (Fed. Cir. 2003). These sources include the claims themselves (see *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999)), dictionaries and treatises (see *Tex. Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2d 1812, 1818 (Fed. Cir. 2002)), and the written description, the drawings, and the prosecution history (See *DeMarini Sports, Inc. v. Worth, Inc.*, 239 F.3d 1314, 1324, 57 USPQ2d 1889, 1894 (Fed. Cir. 2001)). If extrinsic reference sources, such as dictionaries, evidence more than one definition for the term, the intrinsic record must be consulted to identify which of the different possible definitions is most consistent with applicant's use of the terms. See *Brookhill-Wilk 1*, 334 F. 3d at 1300, 67 USPQ2d at 1137 and *Renishaw PLC v. Marposs Societa per Azioni*, 158 F.3d 1243, 1250, 48

USPQ2d 1117, 1122 (Fed. Cir. 1998). If more than one extrinsic definition is consistent with the use of the words in the intrinsic record, the claim terms may be construed to encompass all consistent meanings. See *Tex. Digital*, 308 F.3d at 1203, 64 USPQ2d at 1819. See also *Rexnord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342, 60 USPQ2d 1851, 1854 (Fed. Cir. 2001) and *Toro Co. v. White Consol. Indus., Inc.*, 199 F.3d 1295, 1299, 53 USPQ2d 1065, 1067 (Fed. Cir. 1999)

As Applicant explains in the response, Warshavsky disclosed XML Mapping Definitions constructed for a particular application [Response, page 10]. Warshavsky also clearly disclosed using these XML Mapping Definitions in order to properly define the data being passed. Therefore, the XML Mapping Definitions provide characteristics of the application, such characteristics in the least being the format of the data, and how such data is used, i.e. the type of the data. This clearly identifies a characteristic of the source application as it identifies the type of data used by the source application.

In response to Applicant's argument that Warshavsky does not teach or suggest that the XML document is routed to a target application on the second computer system based on the metadata, Examiner respectfully disagrees.

The teachings of Warshavsky clearly disclose that the message containing this metadata that includes the XML Mapping Definitions gets routed to an XML converter. As such, the data is routed to a target application based on the metadata.

In response to Applicant's argument that Wray does not teach or suggest that the XML document is routed to a target application on the second computer system based on the metadata, Examiner respectfully disagrees.

Wray disclosed that the metadata defines the resource type, attributes and security parameters (Wray, [0155]). Wray further disclosed the client making a secure connection with a target resource (Wray, [0158]). As such, it is clear that the message is passed to the resource based on the metadata as the metadata is the data that contains resource type, attributes and security parameters.

In response to Applicant's argument that locating a target resource is not equivalent to determining whether an existing instance of the application is running on the second computer system, Examiner respectfully disagrees, as locating a resource ultimately requires that the resource/application be running in order to locate it.

It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J Bret Dennison/
Primary Examiner, Art Unit 2443